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Attorney for Defendant  
Brandon Kelly Root

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
The Honorable Mary K. Dimke

United States of America,

Plaintiff,

v.

Brandon Kelly Root,

Defendant.

No. 1:22-CR-2063-MKD

Defendant's Sentencing Memorandum

Brandon Root committed serious offenses. He was driving while intoxicated when he collided with another car, killing two adults, and injuring a minor child and another adult. There is nothing he can say or do that will ease the pain, suffering and loss the victims' families have experienced because of his actions. Nor is any sentence the Court imposes likely to be sufficient for the families of the victims.

At the time of the collision, Mr. Root had been struggling with alcohol abuse for many years. While not an excuse for his actions, it appears his alcohol abuse

1 started at some point when he was in the military and progressed over the years.

2 When he returned home after completing his service, his sisters noticed a change in

3 Mr. Root. His sister, Colithea Strong, stated that:

4  
5 “Ever since his [Brandon’s] honorable discharge from the military, he suffers from  
6 PTSD and struggles with his emotions. As his sister, I have witnessed some of his  
7 personal difficulties. We share a close and distant bond. He does not express any of his  
8 personal feelings with anyone at all because he keeps those memories and traumas to  
9 himself and it builds within him. Brandon has tried so hard to work on his PTSD issues,  
10 but the things he has witnessed overwhelms him.”

11  
12 *Declaration of Counsel in Support of Sentencing Memorandum (“Dec.”): Exhibit A – Letter from*  
13 *Colithea Strong.*

14 Another sister, Georgia Garcia, indicated:

15  
16 “Brandon served in the armed forces for about 10 years. He served in a several places,  
17 I believe Korea was the longest. I cannot imagine the things he witnessed but I know that  
18 some of the incidents were horrific & life changing. Though he never talked about them,  
19 the affect of them showed in his being. He came back changed man. My brother never  
20 drank before the army. Not even after the many childhood traumas he endured. Some  
21 unspeakable things.”

22 *Dec.: Exhibit A – Letter from Georgia Garcia.*

23 Unfortunately, Mr. Root’s continued alcohol abuse after being discharged from  
24 the military, resulted in serious consequences, and he now faces a significant term of  
25 imprisonment. Mr. Root recognizes his conduct justifies a term of imprisonment, and  
he requests the Court impose a sentence of 96 months under the Rule 11(c)(1)(C) plea  
agreement.

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**I. Base Offense Level and Enhancements.**

Mr. Root had no objections to the guideline calculations in the Presentence Investigation Report. [ECF No. 79].

**II. Departures.**

Mr. Root is not seeking a downward departure.

**III. Sentencing Under 18 U.S.C. § 3553(a)**

The determining an appropriate sentence, the Court must consider the sentencing factors of § 3553(a), as well as the nature and circumstances of the offense and the characteristics of the defendant in fashioning a sentence. The sentence imposed by the Court must be “sufficient, but not greater than necessary to accomplish the goals of sentencing.” *Kimbrough v. United States*, 552 U.S. 85 (2007). Under the Rule 11(c)(1)(C) plea agreement, Mr. Root requests the Court impose a sentence of 96 months imprisonment and a 3-year term of supervised release. Such a sentence is sufficient but not greater than necessary to meet the goals of sentencing.

**1. Nature and Circumstances of the Offense.**

On June 11, 2017, Mr. Root was involved in a two-car collision on the Yakama Indian Reservation. Mr. Root crossed the centerline and struck another vehicle head on. When officers contacted Mr. Root at the scene, he showed signs of intoxication, he stated he had been drinking and they found beer in his car. Mr. Root’s BAC level was over the legal limit and confirmed that he had been drinking. Two adults in the

1 other vehicle died from their injuries, the driver and a passenger seated in the driver's  
2 side backseat. A 6-year-old minor seated in the front passenger seat and another adult  
3 seated in the passenger side backseat suffered serious injuries. [ECF No. 79 at pg. 6].  
4 According to the discovery, a toxicology report indicated the deceased driver tested  
5 positive for drug use.  
6

7 Mr. Root pled guilty to two counts of Involuntary Manslaughter and two  
8 counts of Assault Resulting in Serious Bodily Injury. Based on the nature and  
9 circumstances of the offense, a sentence of 96 months imprisonment and 3 years of  
10 supervised release is sufficient but not greater than necessary to meet the goals of  
11 sentencing.  
12

## 13 **2. History and Characteristics of Brandon Kelly Root.**

14 The Court must also consider Mr. Root's history and characteristics when  
15 determining an appropriate sentence. Mr. Root was born and raised in the Yakima  
16 Valley, primarily on the Yakama Indian Reservation. Life on the reservation was  
17 difficult for Mr. Root. He experienced neglect and trauma as a young boy. His  
18 parents suffered from substance abuse issues and, when he was young, he had little  
19 contact with his father. Mr. Root and his sister did not have a stable living  
20 environment as children and spent a lot of time with his grandmother due to their  
21 parents' alcohol use. *Id.* at ¶115. However, as noted in the PSIR, even living at his  
22 grandmother's residence was not a safe place for Mr. Root. *Id.* at ¶128.  
23  
24  
25

1 Mr. Root graduated from high school and enlisted in the U.S. Army a month  
2 after graduation in 1995. Mr. Root was in the Army for eight (8) years and was  
3 honorably discharged in 2003 with a rank of Sergeant. Since his discharge, Mr. Root  
4 has mostly maintained employment primarily working for different agencies on the  
5 Yakama Reservation. His last employment was with Legends Casino for almost five  
6 (5) years as a maintenance, housekeeping and handyman. *Id.* at ¶¶s 138, 141-143.  
7

8 Even though he's maintained employment for many years, Mr. Root has  
9 struggled with alcohol abuse for 20+ years. While his family has a history of  
10 alcoholism, Mr. Root did not use alcohol regularly until the age of 25 when he was in  
11 the military. *Id.* at ¶¶s 130, 137. Mr. Root used alcohol to help deal with the stress and  
12 responsibilities of his duties, as well as difficulties in his personal life. Because of  
13 where he was stationed, Mr. Root did not feel he could go anywhere to deal with the  
14 stress he was experiencing. *Id.* It was not until 2010 that Mr. Root's problem with  
15 alcohol spiraled out of control resulting in several convictions for driving while under  
16 the influence. *Id.* at pgs. 10-15.  
17  
18  
19

20 Mr. Root tried to address his alcohol use and participated in substance abuse  
21 treatment for alcohol abuse on several occasions and completed outpatient and  
22 inpatient treatment. However, Mr. Root could not maintain his sobriety which  
23 resulted in further alcohol abuse, and the tragic death of two individuals and serious  
24  
25

1 injuries to two other individuals. After the 2017 accident, Mr. Root maintained his  
2 sobriety for four (4) years, from 2017 until 2021. *Id.* at ¶¶130-136.

3  
4 In December 2021, Mr. Root was charge with DUI. When asked about the  
5 pending DUI charge from December 2021, Mr. Root explained he and his sister were  
6 tasked with wrapping his father's body and removing him from his home. Unable to  
7 cope with these events and the loss of another relative, Mr. Root again consumed  
8 alcohol leading to the DUI charge. *Id.* at ¶131. In August 2022, he was diagnosed  
9 with a severe alcohol use disorder. Mr. Root recognizes his alcohol use is tied to his  
10 mental health issues, and his consumption occurs when experiencing feelings of  
11 sadness. *Id.* at ¶135.

12  
13 Mr. Root previously tried to seek help for his mental health issues. He sought  
14 mental health treatment in 2014 to help him cope with trauma he experienced as child  
15 and in the military but could not pursue treatment due to his legal issues. Mr. Root  
16 has experienced depression and PTSD type symptoms for many years related to his  
17 service in the military and his childhood trauma. *Id.* at ¶¶127-129. Mr. Root also  
18 experienced depression after the accident in 2017 and was prescribed an  
19 antidepressant while recovering in a rehabilitation center in Yakima, Washington. *Id.*  
20 Besides experiencing depression, Mr. Root also suffered serious injuries to his left arm  
21 and left leg requiring surgery and long-term physical therapy. *Id.* at ¶¶123, 125.

1 The events in this case are difficult and tragic. Many lives have been, and will  
2 continue to be, affected for many years because of Mr. Root's actions. While a term  
3 of imprisonment is warranted, considering Mr. Root's history and characteristics, a  
4 sentence of eight (8) years imprisonment and 3 years of supervised release is  
5 sufficient.  
6

7 Mr. Root served his country honorably for many years. Unfortunately, his  
8 service took a heavy toll on Mr. Root resulting in alcohol abuse that spiraled out of  
9 control after his service. His service and childhood trauma also led to mental health  
10 issues which he believes contribute to his alcohol abuse and that he needs to address.  
11 Despite his struggles, Mr. Root still provided for his children and supported other  
12 members of his family and community. Letters of support provided by his family  
13 describe Mr. Root as a hard worker, a good father, a role model, someone who  
14 encourages others to do better, someone who "provided deer/elk meat for traditional  
15 gatherings and [taught] the younger ones the ways of our people so our traditions  
16 [weren't] lost," and who is involved in his community's memorials and services. *Dec.:*  
17 *Exhibits A-C.* Thus, when Mr. Root maintains his sobriety, he can be productive  
18 member of community and do well.  
19  
20  
21

22 Therefore, considering Mr. Root's history and characteristics, a sentence of  
23 eight (8) years is sufficient but not greater than necessary to meet the goals of  
24 sentencing under 18 U.S.C. § 3553(a).  
25

**Conclusion.**

Mr. Root requests the Court impose a sentence of 96 months imprisonment and 3 years of supervised release. Mr. Root requests the Court recommend placement at FCI Sheridan.

Dated: June 26, 2023.

Respectfully Submitted,

s/Alex B. Hernandez, III  
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CERTIFICATE OF SERVICE

I certify that on June 26, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to: Michael Murphy, Assistant United States Attorney, and Jennifer M. Dykstra, United States Probation Officer.

s/Alex B. Hernandez, III  
Alex B. Hernandez III, 21807  
Attorney for Brandon Kelly Root